

COAL COMBUSTION RESIDUALS (CCR) RULE

ISSUE SUMMARY:

The Coal Combustion Residuals (CCR) rule established minimum national criteria (including technical standards; groundwater monitoring; corrective action; and closure and post closure care) that all CCR disposal units located at electric utilities must meet. It also established a definition of beneficial use of CCR to encourage environmentally appropriate beneficial use of CCR. The rule was challenged, and, in August 2018, the court issued its decision (*Utility Solid Waste Activities Group v. EPA*, 901 F.3d 414). As a consequence, all surface impoundments constructed without a composite liner system are currently required to close. Finally, the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act provided States the ability to submit permit programs covering CCR disposal units to EPA for approval. The WIIN ACT also directed EPA to issue permits for disposal units located in Indian Country and granted EPA the authority to implement a federal permit program in states that did not seek an EPA-approved program. Therefore, there will be a significant workload to transition facilities from self-implementing regulations to either state or federal permits.

UPCOMING MILESTONES:

- **December 2020- March 2020** – Implementation of the Part A and B rule. Owners or operators of surface impoundments that want an extension from the April 11, 2021, deadline to cease receipt of waste must submit a demonstration to EPA no later than November 30, 2020. EPA must review the demonstrations for completeness and then approve or deny them through a public process within four months.
- **Next several months** – Reviewing state programs will continue to be a priority and we anticipate program submittals from up to three more states; EPA is currently reviewing four state programs. EPA also will analyze comments received from the CCR Beneficial Use Notice of Data Availability (NODA) to determine next steps for addressing specific issues arising from the USWAG decision as well as comments from a previous proposed rule.
- **April 11, 2021**– All surface impoundments constructed without a composite liner system that are not granted an extension must cease receipt of waste and initiate closure no later than this date.

BACKGROUND:

Coal Combustion Residuals generally consist of fly ash, bottom ash, boiler slag, and flue gas desulfurization materials and are the residuals from burning coal to generate electricity. The residuals can be managed either wet (in surface impoundments) or dry (in landfills). In December 2008, a massive failure of a Tennessee Valley Authority (TVA) surface impoundment occurred. As a result, EPA committed to developing rules to cover CCR disposal units and to evaluate the structural stability of CCR surface impoundments. EPA signed its final rule in December 2014, and it was published in the Federal Register in April 2015. The rule established minimum national criteria, which all disposal units (CCR landfills and impoundments) must meet. Due to the limits of EPA's statutory authority, EPA was not able to establish a state permit program and/or provide for EPA review and approval of such programs, and the final regulations were self-implementing and contained specific deadlines. A number of critical implementation deadlines have passed, and EPA is monitoring compliance by reviewing the information units are required to post on their public web site.

CCR are one of the largest industrial waste streams, with over 117.3 million tons generated in 2015. CCR contain contaminants of concern such as arsenic and selenium and so need to be managed properly. Moreover, EPA has seen a number of “damage cases” where groundwater contamination has been directly tied to CCR. Dust from dry handling of CCRs is also an issue for many communities.

CCR may be recycled or beneficially used, and EPA supports the safe/appropriate reuse of these materials by developing the first ever definition of beneficial use of CCR.

KEY EXTERNAL STAKEHOLDERS:

☒ Congress ☒ Industry ☒ States ☒ Tribes ☒ Media ☒ Other Federal Agency
☒ NGO ☒ Local Government ☐ Other: _____

Some external stakeholders are concerned with implementation of the rule. The issues that are likely to be most significant in the coming months relate to the requirements that will force the closure of surface impoundments and issues related to how such closures must be conducted. Other industry, beneficial use, and environmental groups are interested in how the rule affects the beneficial use of CCR (e.g., in concrete, agricultural uses, wallboard).

The NGO community, especially the environmental justice community, is most concerned with the effect existing and new CCR units have on surrounding communities (notably groundwater contamination, but also other issues such as truck traffic and wastewater discharges at disposal units). They are also concerned about the impacts of inappropriately managed “beneficial use” of CCR. The U.S. Civil Rights Commission conducted an investigation of whether the CCR rule adequately protects environmental justice communities and issued a report in September 2016, (with which EPA substantially disagrees) concluding that it does not.

MOVING FORWARD:

Taking final action on the CCR Federal Permit rule and initiating implementation of that program. As of now, we believe EPA will permit about 30% of the surface impoundment universe.

Further action may need to be taken on other pending proposals (e.g. re-proposal of the beneficial use definition and CCR piles issues or take final action on certain closure related issues).

Continuing to support the development of state permit programs will be a priority. The states look to us for guidance on how to develop their CCR programs and how to properly assemble their state application.

LEAD OFFICE/REGION: OLEM

OTHER KEY OFFICES/REGIONS: OW, OECA,
OGC, OCIR, REGIONS 3, 4, 5